

**California Crime Technological  
Research Foundation  
(CCTRF)  
March 1974**

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Joint Legislative Audit Committee

GOVERNMENT CODE SECTIONS 10500-10505

California Legislature

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March 20, 1974

The Honorable President of the Senate  
The Honorable Speaker of the Assembly  
The Honorable Members of the Senate and the  
Assembly of the Legislature of California

Members:

Transmitted herewith is the Auditor General's report pertaining to the operations of the California Crime Technological Research Foundation (CCTRF). For fiscal year 1973-74, CCTRF has a budget of \$3,228,086. CCTRF provides services to the federally-funded project SEARCH, and also maintains a laboratory concerned with physical security systems.

With regard to CCTRF's project SEARCH activities, the executive director of CCTRF has improperly exceeded his authority through the signing of contracts in excess of \$25,000 without approval by the board of directors. Specifically, he has signed, without board approval, five amendments ranging in amounts between \$35,814 to \$124,754 with Public Systems Inc. (PSi), the technical coordination staff for project SEARCH. In total, these amount to \$322,505.

The Auditor General has recommended that the executive director immediately discontinue this improper practice.

One present board member owns 3,000 shares of stock in PSi, which has already contracted with CCTRF for more than \$1 million while another board member is an officer of a corporation whose subsidiary owns 69,576 shares, or 19.2 percent of PSi outstanding shares. The Governmental Conflict of Interest Act, commencing with Section 3600 of the Government Code, which became effective January 1, 1974 establishes a potential conflict of interest if either of these board members vote on contracts with PSi. The Auditor General has recommended that the entire board of directors take action to preclude the two CCTRF board members from voting on contracts with PSi.

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In its in-house laboratory, CCTRF researches non-federally funded physical security projects which are experimental in nature. Although a final report will be prepared for a CCTRF building security project, CCTRF generally requests no final report nor makes any formal review and evaluation. The Auditor General believes formal review and evaluation and the issuance of final reports on all such experimental-type projects is mandatory and has recommended that this be effected. While the executive director has stated that funds have not always been specifically requested or made available for a report on each project, the Auditor General notes that effective management on the part of the executive director would at the least require a request of the board for such funds.

CCTRF awards computer contracts to contractors selected by project SEARCH. This procedure has resulted in contracts being awarded to other than the lowest responsible bidder and therefore is not in compliance with Section 4 of the 1973 Budget Act.

Because project SEARCH is funded entirely by federal monies, the executive director, on the advice of the Attorney General, believes that Section 4 is not applicable. The Legislative Counsel and the counsel of the Office of the Auditor General disagree.

This non-compliance with Section 4 has resulted in the awarding of computer contracts without any competitive bidding, in the amount of \$787,889 to PSi alone, and in the awarding of a contract for the Criminalistic Laboratory Information System at a contract price which was 13 percent higher than the lowest responsible bidder.

The Auditor General has recommended that CCTRF comply with Section 4 of the 1973 Budget Act thereby requiring that all computer contracts be awarded through competition to the lowest responsible bidder.

CCTRF is in violation of Section 11784 of the Government Code by engaging in computer contracts in which the contract personnel are not physically located on state premises, but rather are located on private premises.

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While it is conceivable this code section could result in an unnecessary economic hardship, the Auditor General has recommended that CCTRF comply with the code provisions until such time as these provisions are removed or modified.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Vincent Thomas".

VINCENT THOMAS, Chairman  
Joint Legislative Audit Committee

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SUMMARY OF FINDINGS AND RECOMMENDATIONS

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FINDINGS

THE EXECUTIVE DIRECTOR HAS IMPROPERLY EXCEEDED HIS AUTHORITY

The executive director has improperly committed significant amounts of money through the signing of contracts in excess of \$25,000 without approval of the board of directors of the California Crime Technological Research Foundation (CCTRF).

4

POTENTIAL CONFLICTS OF INTEREST EXIST

One CCTRF board member owns stock in Public Systems, Inc. (PSi) while another is an officer of a corporation, a subsidiary of which owns a large bloc of stock in PSi.

5

NON-FEDERALLY FUNDED PROJECTS GENERALLY DO NOT HAVE A FINAL REPORT OR FORMAL EVALUATION

Non-federally funded projects of CCTRF do not generally have a final report nor is there generally any formal review and evaluation thereof. Furthermore, the executive director has not requested funds for final reports.

8

CONTRACTS ARE NOT AWARDED BY COMPETITIVE BID

Section 4 of the 1973 Budget Act requires computer systems' contracts to be competitively bid. CCTRF awards computer contracts to contractors selected by project SEARCH. This procedure has resulted in contracts going to contractors who were not the lowest responsible bidder.

10

DATA PROCESSING CONTRACTS ARE NOT BEING PERFORMED ON STATE PREMISES

CCTRF is in violation of Section 11784 of the Government Code by engaging in data processing contracts in which the contract personnel are not physically on state premises.

12

RECOMMENDATIONS

- We recommend that the executive director immediately discontinue the signing of contracts in excess of \$25,000 until such contracts have been approved by the CCTRF board of directors. 5
- We recommend that the board of directors take action to preclude the two board members involved from voting on contracts with PSi. 7
- We recommend that the executive director request funds for a final report on all CCTRF projects so that a formal review and evaluation can be made of the effectiveness and performance of each project. 10
- We recommend that CCTRF comply with Section 4 of the Budget Act which would require that all computer contracts be let by competitive bid to the lowest responsible bidder. 11
- We recommend that CCTRF comply with the provisions of Section 11784 of the Government Code until such time as that requirement is removed or modified. 13

INTRODUCTION

The California Crime Technological Research Foundation (CCTRF) was established in 1967 pursuant to Title 7 (commencing with Section 14000) of Part 4 of the Penal Code.

The foundation is a public corporation formed to encourage and promote the development and application of science and technology for the prevention and detection of crime, the apprehension and treatment of criminals, and the improvement of the administration of criminal justice in the state.

The foundation is governed by a board of 20 non-salaried persons representing varying interests in criminal justice and research and development, appointed by the Governor, subject to Senate confirmation.

For fiscal year 1973-74, the foundation's budget of \$3,228,086 was funded from three sources:

<u>Source</u>	<u>Amount</u>
The Federal Government	\$2,646,669
The State General Fund	131,417
Other State Agencies	<u>450,000</u>
Total	<u>\$3,228,086</u>



FINDINGS

THE EXECUTIVE DIRECTOR HAS  
IMPROPERLY EXCEEDED HIS AUTHORITY

The executive director has improperly committed significant amounts of money through the signing of contracts in excess of \$25,000 without approval of the board of directors of the California Crime Technological Research Foundation (CCTRF).

CCTRF acts as the fiscal and administrative staff for project SEARCH which is the acronym for System for Electronic Analysis and Retrieval of Criminal Histories. This is a federally funded project of the Law Enforcement Assistance Administration (LEAA) under the Omnibus Crime Control and Safe Streets Act of 1968. For fiscal year 1973-74, it is expected that SEARCH will account for approximately 71 percent of the foundation's funding. SEARCH is a project to develop and test systems which may have multistate utility. As of November 30, 1973, CCTRF has spent \$3,074,726 in project SEARCH. Participants in the project include all 50 states and three territories. It should be noted that the executive director of the foundation has stated that project SEARCH is in the process of filing articles of incorporation, which could result in the removal of CCTRF from project SEARCH operations.

In its role as fiscal and administrative staff to project SEARCH, CCTRF accepts grants and in turn makes subgrants as directed by project SEARCH, and provides the administrative support of accounting, personnel, payroll, etc., necessary for the project SEARCH organization. Also, CCTRF provides some direct research and technical assistance to project SEARCH. The responsibilities of CCTRF include the award and entering into of contracts. However, the specific contractors are selected by project SEARCH.

With regard to CCTRF's project SEARCH activities, the executive director of CCTRF does not always present contracts to the board of directors or its executive committee. He has been delegated the authority by the board to sign all contracts under \$25,000. He has in fact, signed numerous contracts in excess of \$25,000.

He has improperly assumed that he is authorized to sign all contracts once the grant application has been approved. Specifically, SEARCH contracts with Public Systems, Inc. (PSi), the technical coordination staff for project SEARCH which initially totaled \$557,189.71, have been amended 11 times. Six of these amendments signed by the executive director range from \$35,814 to \$124,754. The minutes of April 15, 1971 board meeting clearly show board approval of amendment number one of Contract C-5-16 for \$99,989. The minutes show no board approval for the remaining five amendments which totaled \$322,505.

#### RECOMMENDATION

We recommend that the executive director immediately discontinue the signing of contracts in excess of \$25,000 until such contracts have been approved by the CCTRF board of directors.

#### POTENTIAL CONFLICTS OF INTEREST EXIST

One CCTRF board member owns stock in Public Systems, Inc., (PSi), while another is an officer of a corporation, a subsidiary of which owns a large bloc of stock in PSi.

As previously noted, project SEARCH selects those contractors with which CCTRF executes a contract. As a result, the board does not determine who the contractor is to be.

One CCTRF board member owns 3,000 shares of stock in PSi, which has already contracted with CCTRF for more than \$1 million. He purchased his stock on December 12, 1972, at \$3.50 per share, subsequent to the board's approval of the project for which the contracts with PSi were executed, but prior to some amendments to those contracts. His portion represents less than one percent of the corporation's 380,760 total shares of stock. The board member denies any wrongdoing on his part. After an investigation, the Chairman of CCTRF's Ethics and Conflicts of Interest Committee concurred, because the board had approved the project prior to the stock purchase and it is unclear whether the board ever knew or partook of any discussion relating to any of the subsequent amendments.

Another board member is an officer of a corporation whose subsidiary owns 69,576 shares or 19.2 percent of PSi's outstanding shares. This board member has stated that he had no knowledge of the subsidiary's interest in PSi.

Conflict of interest laws applicable before January 1, 1974 clearly would not apply in these cases because those laws required personal ownership of over three percent of the shares of a corporation or dividends to an official in excess of five percent of the official's income. Neither of these requirements is met in these cases.

Such stock ownership is also subject to the Governmental Conflict of Interest Act, commencing with Section 3600 of the Government Code, which became effective January 1, 1974. According to the Legislative Counsel Opinion "Conflict of Interest - #100 of January 22, 1974":

"The California Crime Technological Research Foundation (see Title 7 [commencing with Section 14000], Part 4, Pen. C.) is a public corporation formed to encourage and promote the development and application of science and technology for, among other things, the prevention and detection of crime (Secs. 14001 and 14002, Pen. C.). The foundation is a state agency (Sec. 14001, Pen. C.); and thus we think that members of its governing body, a board of directors appointed by the Governor (Sec. 14003, Pen. C.), are public officials subject to Section 3625."

Under this law, a public officer shall not have economic interests which are in substantial conflict with the proper exercise of his official duties and powers. An officer has a substantial economic interest if he has a direct investment of more than \$1,000 in an affected business or is an officer of a materially affected business. As of the effective date of the above legislation, these board members may be involved in a conflict of interest if they participate in voting on contracts with PSi.

In addition, Article V, Section 4 of the CCTRF bylaws require "any member who has a financial interest..., shall disclose the nature of the interest to said board of directors. Said member shall be disqualified from voting on the matter under consideration...".

#### RECOMMENDATION

We recommend that the board of directors take action to preclude the two board members involved from voting on contracts with PSi.

NON-FEDERALLY FUNDED PROJECTS  
GENERALLY DO NOT HAVE A  
FINAL REPORT OR FORMAL EVALUATION

Non-federally funded projects of CCTRF do not generally have a final report nor is there generally any formal review and evaluation thereof. Furthermore, the executive director has not requested funds for final reports.

CCTRF maintains a laboratory with five employees. It is estimated for fiscal year 1973-74 that the laboratory will account for approximately 14 percent, or \$450,000, of the foundation's funding. The thrust of the laboratory's operation is in developing physical security systems to protect buildings. Currently, the laboratory is working on a building security project, security for explosive storage facilities, and further technology in a laser detection system. Other than the building security project, none of the programs has provided funding for final reports.

The laboratory has installed three laser fences. The first laser fence was installed for the Department of Housing and Urban Development (HUD) to be used to discourage intrusion during the construction of a California housing development funded by HUD. CCTRF claims success for its first laser fence, although no final report was written and the fence was dismantled after completion of the housing development.

Two other laser fences are still operating. One fence was installed for the Department of Water Resources at its Coalinga Operation and Maintenance Center to prevent intrusion into its facilities. The other was installed at the California Institute for Women (CIW) in Frontera to detect escapes from this facility.

The laser projects are adversely affected by natural elements.

A log kept at the CIW in Frontera during an 84-day period prior to January 17, 1974, indicates that the alarm had been activated 763 times. During that same period, there were only 16 attempted escapes, including those who failed to return from authorized absences. Many of the alarms were activated by fog. Representatives of CCTRF's staff met with staff members from CIW on January 14, 1974. They suggested orally that (1) the intensity of beam be increased from .5 microwatts to .7; and (2) that a "full logic system", a system that detects the velocity and size of the object passing through the beam, be installed thus increasing the laser's accuracy.

It was also discovered that the laser is inoperative during rainy weather when the cables become wet. During a visit to the site by the staff of the Office of the Auditor General, half of the system was inoperative due to wet cables.

The fence at Coalinga is also beset with the problem of fog activating the alarm, a condition common to the Central Valley of California. CCTRF believes that a slight increase in the wattage will remedy this fog problem.

In our judgment, if CCTRF had made a formal review and evaluation of the effectiveness of these projects, which are experimental in nature, soon after their completion, they might have prevented the same problem from occurring twice and could have already verified whether increased power would solve the fog problem. Without a formal review and evaluation it is difficult to measure or check the effectiveness of CCTRF's experimental projects.

Even though the board of directors has not required a formal review of projects, the executive director would demonstrate effective management by recommending to the board a policy that would include funding for a final report. We note that the building security project, when completed, will include a final report.

#### RECOMMENDATION

We recommend that the executive director request funds for a final report on all CCTRF projects so that a formal review and evaluation can be made of the effectiveness and performance of each project.

#### CONTRACTS ARE NOT AWARDED BY COMPETITIVE BID

Section 4 of the 1973 Budget Act requires computer systems' contracts to be competitively bid. CCTRF awards computer contracts to contractors selected by project SEARCH. This procedure has resulted in contracts going to contractors who were not the lowest responsible bidder.

Section 4 of the Budget Act of 1973 contains several contractual requirements for the sale or lease of electronic data processing activities, personnel, equipment, facilities or supplies, such as competitive bidding and confidentiality of data.

Because of project SEARCH's involvement with other states and its complete funding by federal grants, the Executive Director of CCTRF has, with the advice of the Attorney General, assumed that the contracts made with federal funds are not covered by the requirements of Section 4, a conclusion with which

the Legislative Counsel and the counsel of the Office of the Auditor General disagree. This decision has resulted in the awarding of computer contracts on a sole-source basis without competitive bidding in the amount of \$787,889 to PSi alone, as of November 30, 1973.

In addition to being awarded on a sole-source basis, contracts have also been awarded to other than the lowest responsible bidder. For example, CCTRF signed a recent computer contract for the Criminalistic Laboratory Information System with the fifth from the lowest responsible bidder, who was \$12,360, or 13 percent, higher than the lowest responsible bidder.

Absent any compelling reason to the contrary, contracts should be awarded to the lowest responsible bidder even if Section 4 of the Budget Act does not apply. The purposes for competitive bidding include potential reduction in cost and the prevention of fraud in the awarding of governmental contracts. If Section 4 of the 1973 Budget Act is followed, the lowest responsible bidder would be awarded the contract.

#### RECOMMENDATION

We recommend that CCTRF comply with Section 4 of the Budget Act which would require that all computer contracts be let by competitive bid to the lowest responsible bidder.



DATA PROCESSING CONTRACTS ARE NOT  
BEING PERFORMED ON STATE PREMISES

CCTRF is in violation of Section 11784 of the Government Code by engaging in data processing contracts in which the contract personnel are not physically on state premises.

Section 11784 of the Government Code provides in part that:

"Any contract entered into by...any state agency,...concerning data processing systems design, programming, documentation, conversion, and other aspects of data processing operations shall require that contract personnel shall be physically on the premises of the...state entity in the conduct of systems design, programming, and documentation;..."

CCTRF has not complied with this provision. There are at least two contracts related to the "State Identification" program which are currently in progress that involve the transmission of fingerprints by telephone which meet the definition for contract contained in Section 11784. The work related to this program is being conducted on private premises.

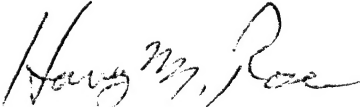
There is no evidence that the foundation has ever made an attempt to comply with the requirements of Section 11784. It is possible that in some cases, including that of CCTRF, this requirement would work an unnecessary economic hardship.

RECOMMENDATION

We recommend that CCTRF comply with the provisions of Section 11784 of the Government Code until such time as that requirement is removed or modified.

COMMENTS OF EXECUTIVE DIRECTOR OF CCTRF

1. While there is nothing in writing which specifically authorizes me to sign contracts in excess of \$25,000, the administrative responsibilities of my position include the inherent authority to do so. Further, from a legal standpoint, the board of directors of CCTRF is aware of such contracts and their subsequent inaction has ratified my actions.
2. While no funds have been specifically requested in the budget or have been made available for a formal evaluation and final report for all non-federally funded CCTRF projects, there is a continuing evaluation process which is transmitted orally to the board's Project Review Committee. Further, it is our intention to specifically provide funding for a final report in at least one proposed project.

  
Harvey M. Rose  
Auditor General

March 18, 1974

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